

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

TAKIA WALTON; DANYLLE)	
MCHARDY; GEORGE DE LA PAZ JR.;)	
KEVIN JACOBS and FEIONA DUPREE,)	
Individually, and on behalf of all others)	
similarly situated,)	CIVIL ACTION FILE NO.
)	1:19-CV-4466-LMM
Plaintiffs,)	
)	
v.)	
)	
PUBLIX SUPERMARKETS, INC,)	
)	
Defendants.)	

DEFENDANT’S RESPONSE TO PLAINTIFFS’ MOTION TO AMEND

Defendant Publix Supermarkets, Inc. does not oppose Plaintiffs’ motion for leave to file a second amended complaint. Doc. 16. If this Court grants leave, however, Plaintiffs’ pending Motion for Equitable Tolling (Doc. 14) should be denied as moot. *See, e.g., Donatti v. Charter Commc’ns, L.L.C.*, No. 11-4166-CV-C-MJW, 2013 WL 3807302, at *2 (W.D. Mo. July 22, 2013) (“As a result of [allowing plaintiffs to file a second amended complaint] after plaintiffs’ motion for equitable

tolling was filed and fully submitted, it appears that plaintiffs' motion for equitable tolling may now be moot.”).¹

Date: October 23, 2019

Respectfully submitted,

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¹ Amendment also moots then-pending motions for conditional certification. *See, e.g., Meyer v. Panera Bread Co.*, 344 F. Supp. 3d 193, 199 (D.D.C. 2018) (denying as moot motion for conditional certification filed before complaint amendment); *Lawrence v. Maxim Healthcare Servs., Inc.*, No. 1:12CV2600, 2013 WL 12178607, at *1 (N.D. Ohio Apr. 26, 2013) (same).

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CERTIFICATE OF SERVICE

I certify that on October 23, 2019, I electronically filed DEFENDANT’S RESPONSE TO PLAINTIFFS’ MOTION TO AMEND using the CM/ECF system, which will automatically send email notification of this filing to all counsel of record.

LOCAL RULE 7.1(D) CERTIFICATION

I certify that this response in opposition to Plaintiffs’ motion for conditional certification has been prepared in Book Antiqua 13-point font as approved by Local Rule 5.1(B).

s/ Brett C. Bartlett
Counsel for Defendant